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In re Application of
KELER et al. :
U.S. Application No. 10/031,722 :
PCT No.: PCT/US00/20272 :
Int. Filing Date: 25 July 2000 :
Priority Date: 29 July 1999 :
Attorney Docket No.: MXI-160US :
For: HUMAN MONOCLONAL ANTIBODIES :
TO HER2/NEU :

DECISION ON REQUEST

This decision is in response to applicants' "Petition to Correct Inventorship Pursuant to 37 CFR 1.48(a)" filed 06 March 2006, which is being treated as a Petition under 37 CFR 1.497(d). The petition fee pursuant to 37 CFR 1.17(h) has been charged to the Deposit Account.

BACKGROUND

On 25 July 2000, applicants filed international application PCT/US00/20272 which claimed a priority date of 29 July 1999. The international application named Tibor Keler and Yashwant Deo as applicants/inventors. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 February 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 29 January 2002.

On 18 January 2002, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*, the requisite basic national fee and a copy of the international application.

On 12 August 2002, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 October 2002, applicants filed a declaration executed by Tibor Keler and Yashwant Deo.

On 06 March 2006, applicants filed a Petition under 37 CFR 1.497(d).

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). In the instant case, the international application named Tibor Keler and Yashwant Deo as applicants/inventors. Applicants request to add Laura Vitale as an applicant/inventor. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

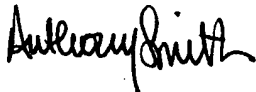
A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17; and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

With the filing the present request, applicants have satisfied items (1)-(4).

CONCLUSION

The request under 37 CFR 1.497(d) is GRANTED.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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